Before the
Federal Communications Commission
Washington, DC 20554

In re Application of	)	
	)	
Petition for Rulemaking of the	)	RM-11338
National Association of Broadcasters to Permit	)	
AM Radio Stations' Use of FM Translators	)	

To: **Office of the Secretary**

Directed to: **The Commission**

COMMENTS OF EASTERN SIERRA BROADCASTING

Eastern Sierra Broadcasting (EBS) hereby submits Comments on the NAB proposal to allow the use of FM translators by AM stations.

1. Statement of Interest

ESB is the permitee of three FM translators and has pending long and short form applications for FM translators. ESB is also the permitee of one AM construction permit and has pending long and short-form applications for new AM stations. ESB's AM permit is BNP-20031217ABM for 1060 kHz. at Sparks, Nevada. It is the result of 5 and one half years of processing between Section 307(b) submissions on the short-form application and engineering and legal amendments on the long-form application. This 15 kW directional daytime facility will serve Sparks, Reno and Carson City. The 370-watt directional night power will provide 100% interference free service to all of Sparks and Reno. However coverage to Carson City which is a major part of the market is lost at night. This is an ideal situation where an FM translator would provide continuous service to Carson City both day and night.

ESB has considered a broadcast affiliation with a future AAA baseball team in the *Reno market. The night game start times are at 7:05 p.m. with the conclusion around* 10:30 p.m. In the present situation Carson City will loose the broadcast between 7:30 and 8:30 p.m. depending upon the month. The only alternative is to apply for an experimental AM operating authority for a booster at night only. This is complicated and burdensome on Commission processing resources and difficult to provide nighttime protections to your own facility.

Carson City is well within the 0.5 mV/m daytime coverage of this facility, however the 2.0-millivolt contour cuts through the north end of the city. In addition Carson City is not fully contained within 25 miles of the transmitter site of the Sparks transmitter site where the south end of Carson City is 28 miles. Therefore the proposal to limit the coverage of the FM translator to within the 2.0-millivolt contour of the AM or 25 miles of its transmitter site in all zones is restrictive. In going through the process of making this the new rule, the Commission should carefully consider all the technical aspects in order to help solve the problems and provide solutions for AM stations who lose coverage at night.

FM ZONES

For the purpose of FM allotments and assignments, the United States is divided into three zones as follows:

Zone I, and I-A. This includes the concentrated population in the north east and mid-west, Puerto Rico and the Virgin Islands and most of California.
In these zones for higher powers only Class B stations are permitted. Class B authorizations are protected to their 54-dbu contour and B1 stations are protected to their 57-dbu contour. FM translators in these zones must reduce power above 32 meters

Zone II is the remainder of the contiguous 48-states plus Alaska and Hawaii.

In these zones for higher power Class C stations are authorized. All Class C authorizations are protected to their 60-dbu contour. FM translators in these zones are not required to reduce power until they are above 107 meters.

Therefore to be consistent there should be a difference of power and distance between theses zones for AM to FM translators.

A 25-mile distance to your 60-dbu contour from you transmitter site does make sense in Zones I and I-A. However due to the greater distance and wide-open spaces in the west in Zone II, a 35-mile distance to your 60-dbu contour is more appropriate and will not infringe on separate radio markets. The distance between rated and non-rated markets in Zone II are greater.

As an example, Chico and Redding, California, which is a hyphenated TV market, are totally separate radio markets. Redding is in Zone I and under this proposal 35-miles to their 60 dbu contour would be allowed. Chico is in Zone I-A and under this proposal would be only allowed 25-miles to their 60-dbu contour. However since Chico and Redding are over 100-miles apart, their contours would never touch, plus their intervening terrain would block the signal.

Chico and Yuba City-Marysville are both located in Zone I-A. These markets are closer to each other as they are approximately 67 miles apart. In this proposal the 25-mile distance to the 60-dbu contour would apply. Even in Zone I-A, they markets are a healthy distance apart.

The city of Reno, Nevada is a rated market and Fallon, Nevada are located 77-miles apart. Fallon is unrated. Both markets are in Zone II and have an exclusive ABC Entertainment News/Paul Harvey affiliation. Either station originating in the others market would be an infringement. At a 35-mile distance from the transmitter site neither

station would infringe on the other. In addition, the intervening terrain would block either station from even being be heard in the others market on an FM translator. Both of these AM stations can be heard in each other's city of license with their fringe daytime service. However this is not an infringement, just a normal part of broadcasting.

Measured contour verses M-3 contour

In many inland areas such as Nevada, applicants will go out and perform ground conductivity measurements to see if they are less than the M-3 conductivity that the Commission utilizes. These AM stations are already hindered by reduced signal strength coverage even just outside their city grade contour. The question arises of which contour to utilize in determining the allowed contour for the FM translator. ESB proposes that the public would be better served if AM stations were allowed to utilize their M-3 contour coverage in determining the allowed coverage for FM translators. This makes sense because it allows the AM station to cover the areas it looses because of the lower ground conductivity.

.5 millivolt contour verses 2.0-millivolt contour

ESB realizes the significant reasons for the restriction of the containment within the 2.0-millivolt contour is to protect broadcasters from infringing on each other's market. Philadelphia stations do not want to hear their New York City competitor clearly or vice-versa. However there are some circumstances where this can be too restrictive. Therefore, ESB proposes the following rules that will satisfy the above concerns:

- **All FM translators for AM stations 60-dbu contour will be restricted to the lesser of the 2.0 millivolt contour or 25-miles from their AM transmitter site in Zone I and I-A and 35-miles in Zone II. The height and distance to the 60-dbu contour will determine the authorized allowable ERP of these translators.**

- **An exception to the above is that an FM translator of 250-watts or less can be authorized with coverage beyond their 2.0-millivolt AM contour and within their .5 millivolt contour if an applicant can demonstrate that the area is within their designated market area. This area is also defined as metro area verses TSA for *rated markets. To qualify the transmitter site of the FM translator shall be located* within the 2.0-millivolt contour of the primary AM station.**

- **In determining the allowable coverage for an AM to FM translator the Commission will utilize the M-3 standard conductivity maps.**

The above wording should satisfy the concerns of broadcasters not jumping into adjacent markets and also provide the rules to allow AM stations to fully cover their market both day and night.

Further analysis

There are three Classes of FM translators that are currently authorized.

1. In Zone I and I-A. 250-watts at less or equal to 32 meters height and down to 10-watts at 141 meters and above.

2. In Zones II. 250-watts at less or equal 107 meters and down to 10-watts at 541 meters height and above.

3. In all Zones. 250-watt fill-in translators are authorized at any height provided that they do not exceed the protected contour of the primary station.

The NAB proposal envisions a higher power and new class of FM translators to be located at AM transmitter site or a location near the city of license. This makes the most sense to have one main higher power FM translator either at the AM station's transmitter site or at a site near the city of license. This does create a new class of FM translators that will have different power levels than described above.

There will certainly be situations where coverage is needed in only a certain area and a traditional up to 250-watt FM translator will be required. Also with the scarcity of FM spectrum they will be situations where one lower power FM translator frequency is available in one area of the market and a different frequency is available in another area,

all within the 2.0-millivolt contour. It is best for the AM broadcaster to have the flexibility within the rules to apply for what will work technically based upon available spectrum.

The fastest way for this service to be implemented is for an AM licensee to purchase or lease an unbuilt FM translator permit. Based upon the 2.0-millivolt coverage of the AM station, the FM translator licensee may apply for increased power, which is possible for some. However many FM translator authorizations are locked in due to interference protections. In this case the AM station would accept the coverage as authorized.

Processing existing FM translator applications

Based upon the anticipated authorization of AM to FM translators, it is now urgent that the processing of the Auction 83 FM translator window applications resume. Many of theses pending applications have the potential to become AM to FM translators. There is no longer any freeze on processing of FM translator applications, therefore the Commission should move forward as follows:

1. Grant all pending FM translator long-form applications that have been accepted for filing.
2. Issue a new FM translator singleton list and begin processing those applications.
3. Announce an FM translator settlement window. This will allow spectrum to be freed up, as possibly only one in four of remaining FM translator applications will be granted.

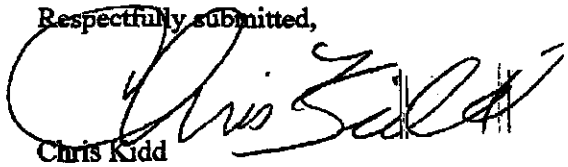
The following are options for the Commission to consider to help direct the future use of FM translators from Auction 83.

1. Provide preferential processing for long-form FM translator applicants who are required to pay a filing fee (*i.e.*, commercial applicants). This would move forward grants faster for applicants who designate a commercial station.
2. Require applicants who designated a commercial station in their short-form application to retain that designation and remain "commercial," therefore requiring them to remit a filing fee with their long-form applications.

Adopting these procedures has the greatest potential to free up more spectrum.

In summary, FM translators for AM stations will serve the public interest and the Commission should move forward to implement this new rulemaking as fast as time allows.

Respectfully submitted,



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